

**DOCKET FOR REGULAR COUNCIL MEETING OF
TUESDAY, JULY 24, 2001 AT 10:00 A.M.
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**DOCKET FOR REGULAR COUNCIL MEETING OF
TUESDAY, JULY 24, 2001 AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS - 12TH FLOOR
202 "C" STREET
SAN DIEGO, CA 92101**

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. - 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

The **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at 236-6233.

ITEM-300: ROLL CALL.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

SPECIAL ORDERS OF BUSINESS

ITEM-310: Farshin Samimi Residence.

Matter of the request by Orrin Gabsch, President, La Jolla Town Council, for a hearing of an appeal of the decision by the Planning Commission denying the appeal of the Hearing Officer's decision and approving the request for the Farshin Samimi Residence, Coastal Development Permit/Hillside Review Permit No. 99-1360 with a revision to Condition No. 18. The project requests a Coastal Development Permit/Hillside Review Permit for the construction of a 3,219 square foot, two-story residence above a 1,059 square foot finished basement with an attached two-car garage on a 0.22 acre vacant lot located at 7666 Hillside Drive in the La Jolla Community Plan area.

(CDP/HRP-99-1360. La Jolla Community Plan area. District-1.)

TODAY'S ACTION IS:

A motion either granting or denying the request for a hearing of the appeal.

NOTE: Pursuant to the requirements of the San Diego Municipal Code, no oral presentations shall be made to the Council by either the proponents or opponents of the project.

If the request to allow an appeal is granted, time has been reserved for the project to be heard on September 11, 2001, at 10:00 a.m.

SUPPORTING INFORMATION:

BACKGROUND

The applicant proposes to construct a 3,219 square foot, two-story residence above a 1,059 square foot finished basement with an attached two-car garage on a vacant 0.22 acre lot. The project site, located at 7666 Hillside Drive, lies within the R1-8000, Coastal Overlay (Nonappealable Area 1), Hillside Review Overlay and the Proposition "D" 30-foot Coastal Height Limit zones of the La Jolla Community Plan area. The project is required to obtain a Coastal Development Permit (SDMC Section 111.1202) for the construction of the proposed

single family residence on the existing vacant lot and is located in the Hillside Review Overlay Zone and requires a Hillside Review Permit (SDMC Section 101.0454).

The La Jolla Community Plan designates this site for single-family (0-4 du/ac) residential development. Surrounding land uses include single-family development and open space.

On September 14, 1984, the Planning Director approved HRP-84-0535 on the subject property. This permit allowed grading (700 cu. yds. of cut, and 170 cu. yds. of fill - 530 cu. yds. being exported) associated with the development of a two-story, 4,700 sq. ft., single-family residence. The development included vehicular access via a driveway across adjacent Parcels 2 and 3, a lap pool, and associated retaining walls. HRP-84-0535 was never utilized and therefore expired.

On July 1, 1998, the Hearing Officer denied the Dowlatshahi Residence, CDP/HRP/VAR-96-0585. The application proposed to construct a 5,859 sq. ft. multi-level residence with retaining walls and vehicular access via the recorded access easement which included a Variance for a 35% encroachment into slopes 25% gradient or greater where 20% is permitted. On October 15, 1998, the applicant's appeal was heard by the Planning Commission, who denied the appeal of the Hearing Officer's decision and denied the project. The project was denied due to the size of the structure in relation to the size of the lot and the excess encroachment over the permitted amount. The former project resolution has been provided as an attachment for review (Attachment 11, Planning Commission Report).

On April 4, 2001, the Hearing Officer approved the Farshin Samimi Residence project. The Hearing Officer determined that findings could be made that the proposed development was in conformance with the Coastal and Hillside Review Overlay zones and the design was sensitive to the hillside and conformed with the Hillside Development Guidelines. Testimony at the hearing included a neighbor, who expressed concerns about conformance and potential impacts to the access road. Additional testimony was given by Joanne Pearson, representing the La Jolla Town Council, with concerns about the change in the amount of impact to the site based on the applicant's consultants findings of non-natural slopes on site, and therefore a reduced impact area into sensitive slopes. Ms. Pearson also submitted a letter from the La Jolla Town Council outlining these issues (Attachment 6).

PROJECT ANALYSIS

The subject property is a portion of a 71 lot subdivision approved in 1912. In 1978, a lot line adjustment among four of these R1-8000 Zoned lots (Lots 63, 64, 65, and 66), resulted in their current configuration as Parcels 1 through 4 (Parcel Map 7723). The vacant 9,586 sq. ft. Site (Parcel 4), slopes steeply upward from an elevation of 284 feet at Hillside Drive, southward a distance of approximately 169 feet, to an elevation of 348 feet at the southerly property line, a difference of approximately 64 feet.

The site is located on the northwest facing slope of Mount Soledad, overlooking La Jolla Shores. Ninety-one percent (91%) of the property contains slopes which exceed a 25 percent gradient, and is zoned Hillside Review Overlay. Fifty-four (54%) of the site retains natural 25 percent or

greater slopes. The project proposes to grade 40% of the site, with 940 cubic yards of cut and 120 cubic yards of fill. The project site will contain retaining walls with a maximum height of 8 feet. A geotechnical report has been reviewed and approved by the City Engineering staff.

The site has frontage on Hillside Drive from which vehicular access is provided. Due to topographic constraints, the property is too steep to afford direct access to required off-street parking. Access would be provided to the site via a recorded easement across Parcels 2 and 3, located immediately adjacent to the east.

The proposed project is a 3,219 square foot, two-story single family residence with a 1,059 square foot finished basement with an attached two-car garage. The proposed home would be partially embedded into the hillside with a three-story appearance from the street. The remainder of the lot would be partially landscaped with a large area to remain in its natural state.

The proposed home is a contemporary style with a flat roof and stucco finish. The project is located in a residential neighborhood composed of homes with a variety of designs of similar size and scale to the proposed home. The existing homes in the immediate vicinity are large custom designed homes on lots in excess of 8,000 square feet.

The principal difference between this project and the denied project in 1998, is that the applicant hired a soils testing engineering firm to do a complete Geologic Reconnaissance with borings to determine the extent of fill slopes on the site. The outcome of the testing proved that the natural slopes were significantly less than originally thought and therefore the project has a significantly lower level of encroachment into natural 25 percent or greater gradient slopes.

As identified with Mitigated Negative Declaration MND-99-1360, the entire site is covered by Diegan Coastal Sage Scrub. The project would impact .0979 acres, below the level of significance and no Mitigation is required. In addition, approximately 3,000 square feet of the lot is located withing the City's Multiple Species Conservation Program, Multi-Habitat Planning Area (MSCP/MHPA). The project is consistent with the City's Multiple Species Conservation Program Subarea Plan.

The project site also may contain significant archeological resources. Although a portion of the site is considered disturbed, any remaining prehistorical/historical resources are considered potentially significant and monitoring is required.

Community Planning Group Recommendation - The La Jolla Community Planning Association on February 12, 2001, voted 7-0-1 to recommend approval of the project.

Environmental Impact - Mitigated Negative Declaration No. 99-1360 has been prepared for this project in accordance with State CEQA guidelines. A Mitigation, Monitoring and Reporting Program has been prepared which contains mitigation that would reduce the potential for impacts to Historical Resources to a level below significance.

Fiscal Impact - None with this action.

Code Enforcement Impact - None with this action.

Housing Affordability Impact - None with this action.

Escobar-Eck/JCT

The Planning Commission on June 7, 2001, voted 5-0 to deny the appeal, certify the Mitigated Negative Declaration, adopt the MMRP, and approve CDP-99-1360 with a revision to condition No. 18 to read, "Prior to the issuance of any building permits, the applicant shall assure by permit and bond, the widening of Hillside Drive with enough pavement, curb and gutter, along with property frontage with the proper transition, addressing the public health and safety, and drainage issues while maintaining the rural character of the neighborhood satisfactory to the City Engineer;" was opposition.

Yeas: Garcia, Skorepa, Steele, Butler, Stryker

Not Present: Anderson, Brown

ADOPTION AGENDA, HEARINGS

NOTICED HEARINGS:

ITEM-330: Warren Development.

(Continued from the meeting of July 10, 2001, Item 331, at the request of Council Member Peters, to allow for time to review recently submitted documents.)

Matter of the appeal by Gunter Zittel represented by Worden, Williams, Richmond, Brechtel & Gibbs, of the decision by the Planning Commission in approving an application for a tentative map to consolidate four lots into one for condominium purposes, a permit to demolish four residences and construct one three-story building for six units with an underground parking garage, landscaping and improvements in the public right-of-way. The 0.28 acre project site is located on the southeast corner of Olivetas Avenue and Ravina Street in Zone 5 of the La Jolla Planned District of the La Jolla Community Plan area.

(TM/SDP/CDP-40-0242. La Jolla Community Plan area. District-1.)

NOTE: Hearing open. No testimony taken on 7/10/2001.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution in subitem A; and adopt the resolution in subitem B to deny the appeal, and grant the map and permit:

Subitem-A: (R-2002-)

Adoption of a Resolution certifying that the information contained in Environmental Mitigated Negative Declaration LDR No. 40-0242 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said MND has been reviewed and considered by the Council pursuant to California Public Resources Code Section 21081; and adopting the Mitigation Monitoring and Reporting Program.

Subitem-B: (R-2002-)

Adoption of a Resolution granting or denying the appeal and granting or denying the Tentative Map, Site Development/Coastal Development Permit No. 40-0242, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission, on April 5, 2001, voted 5 - 0 to approve; was opposition.

Ayes: Garcia, Butler, Brown, Stryker, Skorepa

Recused: Steele

Not present: Anderson

The La Jolla Community Planning Group on June 2, 2000, voted 13-0-2 to recommend approval of the project with the condition that trash be lifted to the street.

CITY MANAGER SUPPORTING INFORMATION:

The project proposes to consolidate four lots into one for condominium purposes and to demolish four residences, and construct one three-story building for six units with an underground parking garage, landscaping, and improvements in the public right-of-way.

Background

The 0.28 acre site is located east of Olevitas Avenue, west of La Jolla Boulevard between Ravina Street and Pearl Street in the existing zone 5 of the La Jolla Planned District of the La Jolla Community Plan area. The surrounding properties are developed with single and multi-family residential uses. The proposed project is consistent with the La Jolla Community Plan land use map which designates this property for medium density residential land use (14-43 dwelling units per acre).

The existing four houses to be demolished were constructed prior to 1930. To address the potential that the existing structures have historical value, a historical evaluation has been completed which determined the houses are of no historic significance. The four structures are located at 7515 Olevitas Avenue and 415, 417, and 425 Ravina Street. The structure at 7515

Olivetav Avenue was built in 1918. The record shows that subsequent additions and alterations have been made to the structure. The house at 415 Ravina Street was built in 1976 when the previous structure, built in 1918, was demolished. The Mediterranean style house at 417 Ravina Street was built in 1918 and was later stripped and rebuilt as a stucco frame home. The Bungalow style house at 425 Ravina Street was also built in 1918. Several additions and alterations have been made to the original structure. All the existing structures are single story buildings in reasonably good condition.

The historical report concluded none of the structures were historically or architecturally significant under the California Environmental Quality Act as they are absent of any historical context, association with important persons or events, uniqueness, and/or structural integrity of the existing houses.

Council Policy 600-3 (Coastal Housing Program) exempts development which proposes to demolish less than ten units from any requirements to provide affordable housing replacement units (LDC 143.0820). The project is not conditioned to provide any replacement affordable housing units nor is the applicant proposing to do so.

FISCAL IMPACT: None.

Loveland/Christiansen/JSF

LEGAL DESCRIPTION:

The project site is located on the southeast corner of Olivetas Avenue and Ravina Street in Zone 5 of the La Jolla Planned District and is more particularly described as Lots 1, 2, 3, and 4 of Map No. 352.

ADOPTION AGENDA, HEARINGS
NOTICED HEARINGS:

ITEM-331: Kilroy Carmel Mountain Technology Center.

Matter of approving, conditionally approving, modifying or denying an application to rezone a site from the Industrial Zone IH-2-1 (M-LI) to Industrial Zone IP-2-1 (M-IP) and amend Planned Industrial Development Permit No. 83-0861 to allow both large single user building tenants and multiple tenants at two existing developed sites; one, a 8.65 acre site at 15435 Innovation Drive on the northwest corner and two, a 4.65 acre site at 15445 Innovation Drive on the southwest corner, both at the intersection of the Avenue of Science and Innovation Drive in the Rancho Bernardo Community Plan area.

(RZ/PID-99-1351. Rancho Bernardo Community Plan area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution in subitem A; adopt the resolution in subitem C to grant the permit; and introduce the ordinance in subitem B:

Subitem-A: (R-2001-1772)

Adoption of a Resolution certifying that the information contained in Mitigated Negative Declaration LDR-99-1351 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administrative Code Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by Council in connection with the approval of the land use actions for the Kilroy Carmel Mountain Technology Center; declaring that the Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration is approved; declaring that pursuant to California Public Resources Code section 21081.6, the Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment; directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2001-174)

Introduction of an Ordinance of the Council of the City of San Diego changing 13.3 acres located at 15435 and 15445 Innovation Drive, within the Rancho Bernardo Community Plan area, in the City of San Diego, California, from the IH-2-1 Zone (previously referred to as the ML-LI Zone) into the IP-2-1 Zone (previously referred to as the M-IP Zone), as defined by San Diego Municipal Code Section 131.0602; and repealing Ordinance No. O-15605 (New Series), adopted November 16, 1981, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-C: (R-2002-)

Adoption of a Resolution granting or denying the Planned Industrial Development Permit PID-99-1351, with appropriate findings to support Council action.

OTHER RECOMMENDATIONS:

Planning Commission voted 5-0 to approve; no opposition.

Ayes: Anderson, Butler, Brown, Stryker, Skorepa

Not present: Steele

Recusing: Garcia

The Rancho Bernardo Community Planning Group has recommended approval of this project.

SUPPORTING INFORMATION:

Kilroy Carmel Mountain Technology Center proposes a rezone from ML-I (IH-2-1) to IP-2-1 (Industrial) and amending Planned Industrial Development Permit No. 83-0861 to allow both single and multiple tenants at two developed sites by means of a Rezone/Planned Industrial Development Permit. The 8.65 acre site at 15435 Innovation Drive on the northwest corner and 4.65 acre site at 15445 Innovation Drive on the southwest corner, both at the intersection of the Avenue of Science and Innovation Drive in the Rancho Bernardo Community Plan area, zoned IH-2-1 (formerly M-LI), is currently developed each with buildings, parking, landscaping and public improvements. The current Planned Industrial Development permit 83-0861 allowed for the development of an industrial/office park.

In reviewing the application, City staff has confirmed the project complies with the regulations of the proposed IP-2-1 industrial zone (formerly M-IP) and all other relevant regulations of the Municipal Code for this property (Attachment 4). At this developed site, no construction or development would result from the approval of the application. The proposed project is consistent with and will not adversely affect the Progress Guide and General Plan and the Rancho Bernardo Community Plan which identifies the site as designated for industrial development. A change in the use of existing development of this site with the proposed single and multiple tenant users will benefit the community by providing an opportunity for economic growth and greater utilization of existing facilities.

The project is estimated to generate approximately 1,628 average daily trips (ADT). Of these trips, 326 are estimated to occur on Interstate 15 (I-15). Interstate 15 has a near-term plus project volume of 226,326 ADT south of Carmel Mountain Road. Caltrans is planning to widen I-15 to provide two additional lanes to be completed by 2005 north of State Route 56. The project is required to provide dual right-turn lanes at the intersection of Carmel Mountain Road and Rancho Carmel Drive.

The Rancho Bernardo Community Planning Board, voted unanimously, on January 18, 2001, to recommend approval of the project with conditions. The suggested condition has been included in the draft permit as condition number nine.

City staff recommends certification of the Mitigated Negative Declaration (MND) LDR No. 99-1351; adoption of the Mitigation Monitoring and Reporting Program with all mitigation necessary to reduce, to a level of insignificance, all significant impacts of the project as identified

in the MND; adoption of the rezone ordinance, and approval of the Planned Industrial Development Permit PID-99-1351 with the conditions contained in the draft permit.

FISCAL IMPACT: None.

No cost to the City. All costs are recovered by a deposit account funded by the applicant.

Loveland/Christiansen/JSF

LEGAL DESCRIPTION:

The project site is located on an 8.65 acre-site at the northwest intersection of the Avenue of Science and Innovation Drive and a 4.65 acre-site located at the southwest intersection of Innovation Drive and the Avenue of Science, and is more particularly described as Parcel 1 and Parcel A of Parcel Map No. 13090 and Lot 4 of Bernardo Heights, Phase V.

ADOPTION AGENDA, HEARINGS
NOTICED HEARINGS:

ITEM-332: **Alternate** actions related to the Proposed Debarment of J.G. Pipeline, Inc., its Divisions and Organizational Elements, its Affiliates, Richard Andrade, Jaime Parraga, George Rogers Frost, Judy Ng Go, and James Jackson.

(See City Manager Reports CMR-01-113 (Revised), Supplement to CMR-01-113, and CMR-01-068.)

TODAY'S ACTION IS:

Adopt **either** the Resolution in Subitem A **or** the Resolution in Subitem B:

Subitem-A: (R-2002-99)

Adopting in full the findings of fact set forth in City Manager's Revised Reports CMR-01-113, 01-68, and any and all documents referenced herein; and the Supplemental City Manager's Report to CMR-01-113, and any and all documents referenced therein; the Administrative Record; all testimony, and evidence submitted prior to or during the debarment hearing on file in the Office of the City Clerk, all of which are incorporated herein, along with any and all documents referenced herein, relative to the corrupt practices of J.G.; declaring that as a consequence of said facts, J.G. is permanently debarred from performing contract work for the City of San Diego; declaring that permanent debarment of J.G. will prevent its continued corrupt practices on City contracts. As such, it is in the

public interest, and it will protect the City by ensuring full and open competition by allowing the City to grant awards only to responsible contractors. This debarment is not for purposes of punishment.

OR

Subitem-B: (Alternate R-2002-99)

Adopting in full the findings of fact set forth in City Manager's Revised Reports CMR-01-113, CMR-01-68, and any and all documents referenced herein and incorporated herein by this reference, and the Supplemental City Manager's Report to CMR-01-113, and any and all documents referenced therein; the Administrative Record; all testimony, and evidence submitted prior to or during the debarment hearing on file in the office of the City Clerk, all of which are incorporated herein, relative to the corrupt practices of J.G.; declaring that as a consequence of said facts, J.G. is debarred (insert City Council Designated Time Not to Exceed Three Years); declaring that debarment (insert City Council Designated Time Not to Exceed Three Years) of J.G. will prevent its continued violations of San Diego Municipal Code Section 22.0803 on City contracts. As such, it is in the public interest, and will protect the City by ensuring full and open competition by allowing the City to grant awards only to responsible contractors. This debarment is not for purposes of punishment.

ADOPTION AGENDA, HEARINGS

NOTICED HEARINGS:

ITEM-333: Two actions related to the Condemnation Proceedings to Acquire the Realty in Connection with the Point Loma Branch Library Project.

(See City Manager Report CMR-01-136. Peninsula Community Area. District-2.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2002-24)

FINDINGS MUST BE MADE AS PART OF COUNCIL ADOPTION

Declaring that the public interest, convenience and necessity of the City of San Diego require the acquisition of fee simple title and improvements to the property located at 3755 Voltaire Street for the construction, operation, and maintenance of the Point Loma Branch Library Project in order to provide for the current and

projected needs of the community; declaring that the expansion will enable the City to provide for a modern library and community service center facility, a park and necessary expanded parking facilities; declaring that the expansion project will necessarily require the acquisition of fee simple title to the property; declaring that the proposed project is planned in a manner that will be most compatible with the greatest public good and the least private injury; declaring that the offer to purchase the property required by Government Code Section 7267.2 has been made to the owners of record of the property and rejected; declaring the intention of the City of San Diego to acquire the real property under eminent domain proceedings; and directing the City Attorney of the City of San Diego to commence an action in the Superior Court of the State of California, County of San Diego, to condemn, acquire, and obtain prejudgment possession of the property for the use of the City.

NOTE: 6 votes required for Subitem A.

Subitem-B: (R-2002-25)

Authorizing the expenditure of an amount not to exceed \$650,000 from Fund 30244, Organization 106, Object Account 4638, Job Order 350670 (CIP-35-067.0) for the acquisition of required property rights and costs related to condemnation of fee title interest and improvements to the realty in connection with the Point Loma Branch Library Project.
Aud. Cert. 2101312.

ADOPTION AGENDA, HEARINGS

NOTICED HEARINGS:

ITEM-334: Three actions related to State Route 56 Project - Middle Segment (Carmel Country Road to Black Mountain Road).

(See City Manager Report CMR-01-132. Torrey Highlands Planned Urbanizing Area and Subarea III Community Area. District-1.)

(Continued from the meeting of June 26, 2001, Item 332, at the request of the City Manager, for further review.)

NOTE: Hearing open. No testimony taken on 6/26/2001.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2001-1751)

Authorizing the City Manager to amend the Cooperative Agreement with the San Diego Association of Governments and California Department of Transportation for funding and right-of-way acquisition for the State Route 56 Project - Middle Segment (Carmel Country Road to Black Mountain Road.)

Subitem-B: (R-2001-1752)

Amending the FY2001 Capital Improvements Program by amending CIP-52-463.0 by increasing the appropriation by an amount not to exceed \$34,850,000 (\$24,037,000 from Fund No. 38976 and \$10,813,000 from Fund No. 38977), for the acquisition of property rights, condemnation, labor, appraisal, relocation, title, escrow, and miscellaneous costs;

Authorizing the expenditure of an amount not to exceed \$34,850,000 from CIP-52-463.0 for the acquisition of property rights, condemnation, labor, appraisal, relocation, title, escrow, and miscellaneous costs, contingent upon certification by the City Auditor and Comptroller of funds being available;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

Subitem-C: (R-2001-1750)

FINDINGS MUST BE MADE AS PART OF COUNCIL ADOPTION.

Determining that the public interest and necessity require the acquisition of certain land for the State Route 56 Project - Middle Segment (Carmel Country Road to Black Mountain Road) and directing the filing of eminent domain proceedings to condemn, acquire, and obtain prejudgement possession of the property for use of the City;

Stating for the record that the final Environmental Impact Report LDR-95-0099, dated May 14, 1998, and adopted June 16, 1998 and July 21, 1998, by Resolution Nos. R-290286 and R-290467, has been reviewed and considered by Council.

NOTE: **6** votes required for Subitem C.

ADOPTION AGENDA, HEARINGS

SPECIAL HEARINGS:

ITEM-335: Second Public Hearing - Annual Appropriation Ordinance for the Fiscal Year 2001-2002.

CITY MANAGER'S RECOMMENDATION:

Hold the second Public Hearing and introduce and adopt the following ordinance:

(O-2002-1)

Introduction and adoption of an Ordinance adopting the Annual Budget for the Fiscal Year 2001-2002 and appropriating the necessary money to operate the City of San Diego for said Fiscal year.

NOTE: Today's action is the second public hearing and introduction and adoption of the Ordinance. See Item 200 on the docket of Monday, July 23, 2001 for the first public hearing.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:**

ITEM-336: Gasoline and Diesel Fuel - Award of Contract.

(See City Manager Report CMR-01-143.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2002-29)

Authorizing the City Manager to accept the low and responsible proposal meeting specifications of the SOCO Group, Inc., and to execute a contract for furnishing gasoline and diesel fuel, as required for a period of one year beginning August 1, 2001 through July 31, 2002, for a total estimated cost of \$4,965,343, including tax and fee, and options to renew the contract for four additional one-year periods, with option period increases for freight charges not to exceed ten percent (10%) of the charges in effect at the end of the prior year;

Authorizing the estimated expenditure of \$4,551,565 for Fiscal Year 2002 of which \$1,784,868 is from Fund 100, Department 110, Police Department, \$183,012 from Fund 100, Department 120, Fire Department, and \$2,583,685 from Fund 50030, Department 820, Equipment Division, provided the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer; and authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Authorizing the estimated expenditure of \$413,778 for Fiscal Year 2003, contingent upon Council approval of the Fiscal Year 2003 budget of which \$162,261 is from Fund 100, Department 110, Police Department, \$16,637 from Fund 100, Department 120, Fire Department, and \$234,880 from Fund 50030, Department 820, Equipment Division. (BID-4061-015)

Aud. Cert. 2200043.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-337: Four actions related to the Final Subdivision Map of Southcrest Park Estates II.

(Southeastern San Diego Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2002-107)

Authorizing a Subdivision Improvement Agreement with Route 252 Joint Venture for the installation and completion of public improvements.

Subitem-B: (R-2002-106)

Approving the final map.

Subitem-C: (R-2002-108)

Accepting a grant deed of the Redevelopment Agency of the City of San Diego dated July 6, 2001, granting to the City Lot 63 of Southcrest Park Estates II.

Subitem-D: (R-2002-109)

Authorizing a Landscape Maintenance Agreement with Route 252 Joint Venture to assure maintenance of landscaping.

CITY MANAGER SUPPORTING INFORMATION:

This map proposes the subdivision of a 14.62 acre site into 62 lots for residential development, plus Lot 63 being deeded in fee to the City at no cost, and Lot 64 for future park purposes. It is located easterly of 1-5 and 1-15 northerly of Chollas Creek in the Southeastern San Diego Community Plan area.

On November 9, 1999 the Council of the City of San Diego approved City Council Resolution No. R-292430 approving Tentative Map TM-98-0262. The City Engineer has approved the final map and states that all conditions of the Tentative Map have been satisfied. The public improvements required for this subdivision are shown in detail on Drawing No. 30465-1-D through 30465-66-D, filed in the Office of the City Clerk under Micro Number 141.09. All improvements are to be completed within two years.

The Engineer's estimate for the cost of public improvements is \$2,209,720 and a Performance Bond in that amount has been provided as surety. A cash bond in the amount of \$14,000, as determined by the surveyor's estimate, has been posted as surety for the setting of survey monuments. This subdivision is located in the Southeastern San Diego Community Plan area which provides for the payment of Facilities Benefits Assessment (FBA) or Development Impact Fees (DIF), which includes parks, at the time of building permit issuance. This community may be subject to impact fees, as established by the City Council, at the time of building permit issuance.

Subdivider, by letter, has given assurance to the City of San Diego that he subscribes to the Affirmative Marketing Program as shown in the "Memorandum of Understanding between the San Diego Building Industry Association and U.S. Department of Housing and Urban Development."

Subdivider is entering into a Landscape Maintenance Agreement, agreeing to maintain all landscaping and appurtenances thereto within the City right-of-way adjacent to this subdivision, until the homeowners assume maintenance responsibility. This project is estimated to generate approximately 695 average daily trips (ADT). 280 of these trips are estimated to occur on the nearby Interstate 5, which has an estimated near-term volume of 188,280. There are no improvements planned by Caltrans on Interstate 5 in the vicinity of this project.

FISCAL IMPACT:

None.

Loveland/Haase/GB

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:**

ITEM-338: Two actions related to the Hale Avenue Resource Recovery Facility - Capital Improvements.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2002-62)

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$4,701,046 from the Metropolitan Wastewater Department Unallocated Reserve, Sewer Fund No. 41509, Department 777, Org. 445, Object Account 4903, Job Order 777210, to Sewer Fund No. 41506, Department 773, Org. 190, Object Account 4229, Job Order 1904, to provide funds for the Hale Avenue Resource Recovery CIP Phase II Project, with funds available in the Fiscal Year 2001 Operations and Maintenance Budget;

Authorizing the expenditure of an amount not to exceed \$4,701,046 from the Fiscal Year 2001 Metropolitan Wastewater Department Sewer Fund No. 41506, Department 773, Org. 190, Object Account 4229, Job Order 1904 for the Hale Avenue Resource Recovery Facility CIP Phase II Expansion Project.

Subitem-B: (R-2002-63)

Declaring that the information contained in the final EIR document EIR-91-21/SCH-90010817, prepared by the City of Escondido on December 19, 1991, including any comments received during the public review process, has been reviewed and considered by Council in connection with the Hale Avenue Resource Recovery Facility Expansion Project;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

CITY MANAGER SUPPORTING INFORMATION:

On April 12, 1972, the City of Escondido (Escondido) and the City of San Diego (San Diego) entered into an agreement for the transporting, treatment and disposal of wastewater from the Rancho Bernardo area. Essentially all of the wastewater, including residential, commercial and industrial, from Rancho Bernardo is treated at Escondido's Hale Avenue Resource Recovery Facility (HARRF). The Agreement provides for San Diego to pay its fair share of the costs for the operation, maintenance, repair, replacement and/or improvements to the HARRF. Escondido is in the process of upgrading the HARRF. The total estimated cost of San Diego's fair share of the upgrades is \$12.8 million. San Diego has budgeted approximately \$8.1 million for the upgrades, leaving a required balance of approximately \$4.7 million. The additional required funding of \$4.7 million is available in the Sewer Fund's Unallocated Reserve and therefore, there will be no change in the total Sewer Fund Budget as a result of this action.

FISCAL IMPACT:

The cost of this action is \$4,701,046 and will be funded from Fund 41509, Unallocated Reserve.

Loveland/Tulloch/WJH

Aud. Cert. 2200051.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-339: FY 2002 Health Insurance Agreements - Kaiser and PacifiCare.

(Continued from the meeting of July 9, 2001, Item 106, at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1711)

Authorizing the City Manager to execute all required written documents to finalize the FY 2002 Health Insurance Agreements;

Declaring that Kaiser and PacifiCare Health Insurance Agreements are effective for a one-year period, and terms of the agreements, including benefit level and rate changes for FY 2002 were negotiated with the carriers and subsequently discussed and approved during the May 1, 2001 City Council Closed Session;

Declaring that Council approval of the FY 2002 Health Agreements authorizes the City Manager to execute the written documents between the City of San Diego and the health insurance carriers, Kaiser and PacifiCare, to be effective August 1, 2001 through July 31, 2002.

CITY MANAGER SUPPORTING INFORMATION:

The Kaiser and PacifiCare health insurance agreements are effective for a one year period. The terms of the agreement, including benefit level and rate changes, for FY 2002 were negotiated with the carriers and subsequently, discussed and approved during the May 1, 2001 City Council Closed Session. This formalizes the Council's approval of the FY 2002 Health Insurance Agreements and authorizes the City Manager to execute the written documents between the City of San Diego and the health insurance carriers, Kaiser and PacifiCare, to be effective August 1, 2001 through July 31, 2002.

FISCAL IMPACT:

The estimated annual cost to the City for FY 2002 active employee coverage is \$7,052,500 for Kaiser and \$4,412,425 for PacifiCare. This amount is based on the total number of active

employees currently enrolled in the respective plans. Monies have been budgeted in FY 2002 for this purpose in all departments through the Flexible Benefits Plan. Additional costs for dependent coverage are borne by the employees through payroll deduction and/or monies available through the employees' Flexible Benefits Plan allotment.

Lexin/Oliva/VV

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-340: PacifiCare Behavioral Health Agreement.

(Continued from the meeting of July 9, 2001, Item 110, at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1712)

Authorizing the City Manager to enter into an agreement with PacifiCare Behavioral Health, to provide group health insurance for the period of August 1, 2000 through July 31, 2002; declaring that the monthly cost for the mental health and chemical dependency treatment services provided by PacifiCare Behavioral Health are as follows:

Employee Only	\$ 8.23
Employee & One Dependent	\$16.49
Employee & Two Plus Dependents	\$33.57

Authorizing the expenditure of an amount not to exceed \$347,000 from Fund 600201.

CITY MANAGER SUPPORTING INFORMATION:

In an effort to provide an enhanced level of coverage for mental health and chemical dependency treatment programs, the City carves this coverage out of the PacifiCare health plans. As part of the bigger health insurance vendor search conducted in January 2000, the City's benefits consultant, Towers Perrin, issued a Request for Proposal on behalf of the City soliciting proposals from five carriers to offer behavioral health coverage to active employees covered by the PacifiCare health plans. PacifiCare Behavioral Health was chosen as the best option to provide mental health and chemical dependency treatments for participants enrolled in the City's PacifiCare HMO and \$250 deductible plans based on service capabilities, administrative

efficiency and cost.

The monthly cost for the mental health and chemical dependency treatment services provided by PacifiCare Behavioral Health for the period of August 1, 2000 through July 31, 2002 is as follows:

Employee Only	\$ 8.23
Employee & One Dependent	\$16.49
Employee & Two Plus Dependents	\$33.57

FISCAL IMPACT:

The estimated annual cost to the City is, \$347,000. This amount is based on the total number of active employees enrolled in PacifiCare HMO and PPO plans as of 8/1/2001. Monies have been budgeted in FY 2001 and FY 2002 for this purpose through the PacifiCare rates.

Lexin/Oliva/VV

Aud. Cert. 2200006.

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:**

ITEM-341: Group Health Agreement - PacifiCare.

(Continued from the meeting of July 9, 2001, Item 111, at the request of the City Manager, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2001-1302)

Authorizing an agreement with PacificCare, to provide group health insurance, for a one year period beginning August 1, 2000 through July 31, 2001, and to authorize a premium rate as follows:

	<u>PacifiCare HMO</u>	<u>\$250 Deductible</u>
Employee Only	\$2,116	\$2,819
One Dependent	\$2,480	\$2,820
Two or More Dependents	\$4,504	\$5,720

Authorizing the expenditure of an amount not to exceed \$4,966,320 from Fund 600201, Account No. 9544.

CITY MANAGER SUPPORTING INFORMATION:

The City's benefits consultant, Towers Perrin, issued a Request for Proposal on behalf of the City soliciting proposals from nine carriers to offer both a fully insured Health Maintenance Organization (HMO) and Preferred Provider Organization (PPO) health insurance plan to active and retired employees and their dependents. Three proposals were received which included the incumbent Blue Cross of California. After extensive review of the responses PacifiCare of California was chosen to replace Blue Cross of California. This decision was based on PacifiCare's ability to replace Blue Cross with little to no provider disruption to City employees, retirees and their dependents while providing some enhanced benefits and at a lower cost than Blue Cross's renewal.

The term of the agreement is August 1, 2000 through July 31, 2001. The annual rates for FY2001 for ACTIVE employees are as follows:

	<u>PacificCare HMO</u>	<u>\$250 Deductible</u>
Employee Only	\$2,116	\$2,819
One Dependent	\$2,480	\$2,820
Two or More Dependents	\$4,504	\$5,720

The cost of active employee coverage is paid through the Flexible Benefits Plan (FBP). Employees may cover their dependents through payroll deduction and/or remainder FBP monies.

FISCAL IMPACT:

The estimated cost to the City for active employees is \$4,966,320. This amount is based on the total number of active employees enrolled during the open enrollment period and represents the cost of coverage for the employee only (\$3,759,086) and monies designated by employees to offset the cost of their dependent (\$1,207,234). Monies have been budgeted in FY2001 for this purpose in all departments through the Flexible Benefits Plan.

Lexin/Oliva/VV

Aud. Cert.2101018.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: June 20, 2001 REPORT NO: 01-132

ATTENTION: Honorable Mayor and City Council
Docket of June 26, 2001

SUBJECT: State Route 56 Project - Middle Segment (Carmel Country Road to Black Mountain Road)

SUMMARY

Issue - Should the City Council authorize condemnation for acquisition of property for State Route 56?

Manager's -Recommendation - Authorize condemnation for acquisition of the properties.

Other Recommendations - None

Fiscal Impact - Funds in the amount of \$34,850,000 are estimated to be necessary for acquisition, litigation and miscellaneous costs. Funds are available in CIP 52-463.0, "State Route 56 - Carmel Valley to Black Mountain Road."

BACKGROUND

SR 56 was adopted by the California Highway Commission in 1965 as a 4-lane freeway, extending from Interstate 5 (I-5) to SR 67 in central San Diego County. Construction of this route would connect the I-15 corridor communities with the I-5 coastal route. SR 56 is the only proposed east-west freeway in the 22-mile gap between SR-78 and SR 52. At this time (1996) two segments of SR 56 have been constructed: a segment located in Rancho Penasquitos, from Black Mountain Road to I-15, and a segment located in Carmel Valley, from El Camino Real to east of Carmel Country Road. The subject of this report is the segment of SR 56 located primarily in the North City Future Urbanizing Area of the City of San Diego between Carmel Country Road and Black Mountain Road. (Final Environmental Impact Report for State Route

56 Between SR 56 West and SR 56 East, Appendix I, Socioeconomics Technical Report dated December 1996, p. 1, Section 1, "Introduction and Summary.") An interchange at I-5 and a segment between I-5 and El Camino Real has been constructed.

The project is to construct approximately 5 miles of SR 56 from 0.4 miles east of Carmel Country Road to Black Mountain Road. Most of the project would be located in what was the North City Future Urbanizing Area (NCFUA) of the City of San Diego, and has since become the planned urbanizing areas of Pacific Highlands Ranch and Torrey Highlands (Subareas 3 and 4, respectively). Small segments of the project would be located in the communities of Carmel Valley and Rancho Penasquitos.

When completed, SR 56 would connect the I-15 corridor communities with the I-5 coastal route. Currently, there are two east-west freeways in Central San Diego County: SR 78 from Oceanside to Escondido and SR 52 from I-5 to Santee. Within the 22-mile gap between the two freeways, there are four arterial roads providing east-west access: County Road S6 (Via De La Valle - Del Dios Highway - Valley Parkway); Sorrento Valley Boulevard - Calle Cristobal; Mira Mesa Boulevard; and La Jolla Village Drive - Miramar Road. (*Id.*, p. 12, Section 2 "Project Description.")

The project will provide an essential transportation connection between I-5 and I-15. The completion of SR-56 will improve mobility for local and regional traffic and reduce circuitous travel by completing the only east-west freeway linkage between I-5 and I-15 in the 25 mile gap between SR-52 and SR-78 in north San Diego County.

Acquisitions of properties located within this project area (approved State Route 56 Middle Segment alignment), for that portion between Black Mountain Road and east of Camino Ruiz Interchange, have occurred. This requested authority relates to those properties within the project area (approved State Route 56 Middle Segment alignment), located west of Camino Ruiz.

The Real Estate Assets Department will continue to negotiate with the property owners, however, condemnation is requested over all impacted properties to insure acquisition of the land prior to award of the construction contract for the project.

DISCUSSION

The City of San Diego is vested with the power of eminent domain to acquire real property for this Project by virtue of Article I, Section 19, of the Constitution of the State of California; Sections 1240.010-050, 1240.110-120, 1240.150, 1240.410, 1240.610, 1240.690-700 of the California Code of Civil Procedure; Sections 100.1, 102, 103.65, 104, 104.6, 113, 113.5, 116, 130, 356, 5023.1 and 5102 of the California Streets & Highway Code; Sections 37350.5 and 40404 of the California Government Code; and Charter of The City of San Diego, Section 220. Pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last San Diego County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard

before the City Council of the City of San Diego on the following matters:

1. Does the public interest and necessity require the proposed project?

Yes. Approval of the eminent domain action serves the public interest and is necessary for development of State Route 56. The project will provide an essential transportation connection between I-5 and I-15. The completion of SR-56 will improve mobility for local and regional traffic and reduce circuitous travel by completing the only east-west freeway linkage between I-5 and I-15 in the 25-mile gap between SR-52 and SR-78 in north San Diego County. It would also relieve congestion on local arterial streets, thereby decreasing travel time and increasing motorist safety, and provide capacity for projected traffic in accordance with local and regional circulation plans.

2. Is the proposed project planned or located in a manner that will be most compatible with the greatest public good and the least private impact ?

Yes. Twenty six (26) project alternatives have been evaluated for the purpose of identifying the most environmentally preferred route. The approved alignment achieves this goal by avoiding the City of San Diego's Multiple Habitat Planning Area (MHPA), while concurrently minimizing or mitigating impacts to existing and planned land uses. The Environmental Impact Report, LDR File No. 95-0099, dated May 14, 1998, covering this project was Adopted June 16, 1998, by Resolution No. R-290286 and R-290467.

3. Is the property sought to be acquired necessary for the proposed project ?

Yes. The property sought along the State Route 56 corridor is required so that State Route 56 can be constructed along the alignment previously selected by the City Council.

ALTERNATIVE

1. Do not condemn for the land and require that the project be redesigned.

Respectfully submitted,

William T. Griffith
Real Estate Assets Director

Approved: Bruce Herring
Deputy City Manager

GRIFFITH/RAG



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: June 7, 2001

REPORT NO. 01-113
REVISED

ATTENTION: Honorable Mayor and City Council
Docket of June 19, 2001

SUBJECT: Proposed Debarment of J.G. Pipeline, Inc., its divisions and organizational elements, its Affiliates, Richard Andrade, Jaime Parraga, George Rogers Frost, Judy Ng Go, and James Jackson [These individuals, the corporate entity, its divisions and organizational elements, and its Affiliates will hereinafter be referred to as “**J.G.**” for convenience and clarification].¹ This debarment is separate and distinct from the procedural process of the debarment of SoCal (defined below).

SUMMARY

Issue - Should the City Council permanently debar J.G. under San Diego Municipal Code sections 22.0801, et seq.?

Manager's Recommendation - Permanently debar J.G. Pipeline, Inc., its divisions and organizational Elements, its Affiliates, Richard Andrade, Jaime Parraga, George Rogers Frost, Judy Ng Go, and James Jackson.

Fiscal Impact - None.

Reference - Revised City Manager Report No. 01-068, and any and all documentation therein incorporated by this reference.

INTRODUCTION

¹Where the full name J.G. Pipeline is used, it refers to the corporate entity itself. It also applies to the Southern California Underground Contractors, Inc. because they both are the same company operating under different names.

Recently, this City Council permanently debarred Southern California Underground Contractors, Inc., its divisions and organizational elements, its Affiliates, James Craig Jackson, and George Rogers Frost [These individuals, the corporate entity, its divisions and organizational elements, and its Affiliates will hereinafter be referred to as “**SoCal**” for convenience and clarification.]

Debarment of J.G. is separate and distinct from the debarment of SoCal. This is a separate hearing at which J.G. has the opportunity to refute this evidence before the City Council. Even though evidence pertinent to debarring J.G. may, in certain respects, duplicate evidence pertinent to debarring SoCal, J.G.’s debarment hearing is independent of SoCal’s debarment hearing and of SoCal’s debarment status.

BACKGROUND

On June 26, 2000, after a noticed public hearing, SoCal was permanently debarred by the San Diego City Council. Four days after that debarment, SoCal, and other individuals related to and working with SoCal, created J.G. Pipeline, Inc. in order to circumvent the debarment. All of these individuals were involved with SoCal both before as well as after that debarment.

As described in the Revised City Manager’s Report No. 01-068, previously distributed to the City Council, SoCal sued the City in an Administrative Writ action. This writ challenged the notice of the debarment provided to SoCal. The Superior Court remanded the matter to the City Council to allow SoCal additional time to prepare. That debarment rehearing was heard on May 22, 2001 and May 26, 2001. After the rehearing, the City Council permanently debarred SoCal. Because SoCal is a debarred contractor, the corporate entity J.G. Pipeline, Inc., is also permanently debarred under the Municipal Code without further City action. However, in order to allow J.G. an opportunity to respond to the City Manager’s recommendation, J.G. will be afforded a debarment hearing. This debarment hearing is separate and distinct from debarment of SoCal. It is a separate hearing and is based upon a sufficient factual basis which stands alone. All parties, including Jim Jackson (officer of SoCal) and George Frost (owner of SoCal), have an opportunity to rebut all evidence presented before the City Council in this hearing. Consequently, pursuant to this debarment hearing, if J.G. is permanently debarred, their debarment is not based upon, nor reliant upon SoCal’s debarment status. The City Manager is recommending permanent debarment of J.G. based upon the information in this Report and any and all documents referenced and incorporated herein.

J.G. BIDS

J.G. has submitted a total of fourteen bids, seven on which J.G. was the apparent lowest bidder, (J.G. Pipeline Bid History Chart, Exhibit B):

<u>September 22, 2000</u>	K01013	Construction of Cather St. Sewer Rehabilitation & Replacement;
<u>October 20, 2000</u>	K01023C	Construction of Dale Street Storm Drain;

<u>November 15, 2000</u>	K01029C	Sewer and Water Group Job 527A;
<u>February 2, 2001</u>	K01045	Sewer and Water Group Job 489 [non-responsive];
<u>February 7, 2001</u>	K01043C	Sewer and Water Group Job 494;
<u>February 8, 2001</u>	K01041	Sewer and Water Group Job 623(a); and
<u>March 15, 2001</u>	K01051	Construction of Hensley St. Accelerated Sewer [non-responsive].

FACTUAL BACKGROUND

1. **J.G. & SOCAL'S SHARED PERSONNEL** - The connections revealing that SoCal and J.G. are the same involves key individuals. In order to allow the City Council to keep track of these names, we are providing the following chart outlining the involvement of each of these individuals:

<u>Personnel</u>	<u>Relationship to:</u>	
	<u>SoCal</u>	<u>J.G. Pipeline</u>
Leon Lopez	Submitted SoCal's Bids, Co-Owns Numerous SoCal Vehicles with Southern California Underground Contractors, Inc., Admittedly Forged SoCal Traffic Control Permit	Submits Bids, Co-Owns Numerous SoCal Vehicles, drives vehicles, owned solely by SoCal to City offices to drop bids off for J.G.
Jim Jackson	Vice-President, Secretary/Treasurer, Submitted Bids	Employee, Submits Bids, Solicits Price Quotes, Requests Credit Applications for J.G.
George Frost	Officer, 100% Stock Owner	Judy Ng Go, his sister-in-law, is the owner of J.G.
Richard Andrade	Former Officer, Provided Legal Representation	Executed Articles of Incorporation, Responsible Managing Employee, Provides Legal Representation, Filed Application for Expedited Contractor's License
Judy Ng Go	Sister-in-law to SoCal Owner George Frost, same address as SoCal	President, Owner
Don Minium	Insurance Agent (Meridian Ins. Co.)	Insurance Agent (Meridian Ins. Co.)

<u>Personnel</u>	<u>Relationship to:</u>	
	<u>SoCal</u>	<u>J.G. Pipeline</u>
Ruben Mendoza	Foreman	Superintendent
Tony Barrios	Foreman	Foreman
Javier Mendiola	Employee	Employee
Alfredo Salgado	Employee	Employee
Jaime Parraga	Owner of SoCal's Mobilehome/ Trailer Used as Office	Vice-president, Secretary/Treasurer, Superintendent, Mechanic/Leadman, Owner of SoCal's Mobilehome/Trailer Used as SoCal's office
Joaquin Garcia	Driver of Vehicle at J.G. Pipeline/SoCal Yard	Employee

2. J.G.'S CREATION

June 1996 - J.G. argues that they are a separate company than SoCal. However, clear links between the two companies exist.

- A. As far back as 1996, George Frost (owner of SoCal), his sister-in-law Judy Ng Go (owner and President of J.G.), his wife Katie Frost and the corporate entity Southern California Underground Contractors, Inc., were located at the same address, as described below.
- B. According to a Dun & Bradstreet Report dated October 12, 2000, George Frost holds 100% of capital stock in SoCal. (Dun & Bradstreet Report, Exhibit C.) Now his relative Judy Ng Go is the owner of J.G. Pipeline. (National City Business License Application, Exhibit D.) Judy Ng Go is believed to be George Frost's sister-in-law, and familiar with SoCal. She appears to be named as a J.G. Pipeline officer, in order to allow George Frost, a debarred contractor, to maintain his influence in the operations of J.G.

June 26, 2000 - SoCal was initially permanently debarred by the San Diego City Council. (San Diego (Debarment) Resolution No. 293401, Exhibit E.)

June 30, 2000 - Merely four days after the initial debarment of SoCal, J.G. was created by Richard Andrade, former SoCal officer and J.G. Responsible Managing Employee (“RME”). (Articles of Incorporation, Exhibit F.)

July 7, 2000 - Jim Jackson (Vice President, Secretary, and Treasurer of SoCal) spoke freely about the SoCal debarment with the City Resident Engineer Collins Solomon on Group Job 530A, a contract on which SoCal was performing. Jim Jackson indicated that he was not concerned about the debarment because they were going to do business as another company. (Declaration of Collins Solomon, III, Exhibit G.)

July 20, 2000 - Engineering and Capital Projects Department (hereinafter referred to as “E&CP”) advertised a public works project entitled Water Group Job 522. This was the first Group Job to be put out for bid since the debarment of SoCal. Group Jobs are typically the types of E&CP projects on which SoCal bid. (Declaration of Anita Welker, Exhibit H.)

July 25, 2000 - Five days after E&CP’s advertisement, Richard Andrade, who in addition to being an attorney and previously a SoCal officer, is a licensed contractor, filed an application for an expedited contractor’s license in order to bid Water Group Job 522. (Application to Contractors State License Board, Exhibit I.) This was less than one month after the SoCal debarment.

3. **J.G. AND SOCAL’S SHARED USE OF INDIVIDUALS WHO COMMITTED THE CONDUCT WHICH TRIGGERED DEBARMENT**

July 31, 2000 - Judy Ng Go (owner and President of J.G.) submitted a letter to the Contractors State License Board requesting that Richard Andrade’s application be expedited. (J.G. Application to Contractors State License Board, Exhibit I.)

- A. The expedite was requested expressly for the purpose of allowing J.G. to bid Water Group Job 522. Allegedly, an expedient approval would allow J.G. to avoid an “unnecessary lay-off of [SoCal] employees.” In Judy Ng Go’s letter supporting the request to expedite, she indicated that J.G. intended to hire twenty-one SoCal employees to be “unemployed” within two weeks. These people were allegedly to be unemployed because SoCal “was moving out of San Diego after finishing up two City of San Diego jobs.” (J.G. Application to Contractors State License Board, Exhibit I.) Despite these representations, many of these employees listed in Judy Ng Go’s request were working for SoCal as late as December 2000-early 2001, described below. (Declaration of Ky Stratton, Exhibit J; Pianavilla Report, Exhibit K; Declaration of Mario Reyes, Exhibit L.)

- B. Not only do these workers continue to work for SoCal while “J.G.” is bidding City work, some of these workers committed the conduct which led to SoCal’s debarment in the first place.
- 1) Jim Jackson (Vice President, Secretary and Treasurer of SoCal) submitted numerous false claims on Group Jobs and falsified a traffic control permit. (City Manager’s Report No. 01-068, Exhibit A.)
 - 2) On Group Job 530A, Tony Barrios, a J.G./SoCal foreman, was cited for stealing water by using a non-operational water meter on a SoCal job. On this Group Job, Tony Barrios, a City Resident Engineer, in direct violation of the City’s directive to avoid a concrete encased high voltage electric conduit, chipped away at the concrete encasement, damaged the electric conduit and caused a power outage in the surrounding tourist and residential area of Old Town. (City Manager’s Report No. 01-068, Exhibit A; Declaration of Collins Solomon, Exhibit G.)
 - 3) On Group Job 496, Reuben Mendoza, a J.G./SoCal foreman, was cited for failing to be present on the job at all times as required by the contract including:
 - a) When the crew was working without traffic control; and
 - b) When SoCal installed a sewer main without inspection and failed to replace laterals in violation of the contract. Both of these instances posed serious risks to the public health and safety. (City Manager’s Report No. 01-068, Exhibit A.)
 - 4) Leon Lopez, a SoCal employee, admitted falsifying traffic control documents as described above. (The Revised City Manager’s Report No. 01-068, Exhibit A.)

August-September 2000 - Shortly after the SoCal debarment, E&CP noticed the following irregularities in J.G.’s bidding practices:

A. Phone Calls

- 1) The E&CP Contract Services Division handles most of the City public works bids. The receptionist received calls from a man named Rick Han. He called regularly to obtain project information: copies of bid documents, project plans and specifications. Sometimes he would say he was with SoCal, other times J.G. On January 31, 2001, he called and represented himself as from SoCal. (Declaration of Danielle Mower, Exhibit M.)

- 2) Some time in September or October, 2000, Anita Welker, Contract Administrator for E&CP Contract Services Division, received a voice mail message from Leon Lopez of J.G. Pipeline, Inc. which began as follows: "Hi, this is Leon from SoCal, (pause) uh, I mean J.G. Pipeline" (Declaration of Anita Welker, Exhibit H.)
- 3) Once when Stacey Stevenson, Deputy Director of E&CP's Contract Services Division, was contacted by Leon Lopez on behalf of J.G., the cell phone number he left for Ms. Stevenson to return his call was the same cell phone number listed in SoCal's bid documents previously provided to the City. (Declaration of Stacey Stevenson, Exhibit N.)
- 4) In addition to these telephone calls, E&CP was notified by other contractors that J.G. Pipeline was, in reality, SoCal. (Ortiz Letter, Exhibit O; Declaration of David Zoumaras, Exhibit P.) At a contract bid opening where J.G. Pipeline submitted a bid, John Cady, of Ortiz Construction Corporation, said to Anita Welker, "You know who that is - that's SoCal," referring to J.G. Pipeline's bid. (Declaration of Anita Welker, Exhibit H.)

4. J.G.'S COMPLETE LACK OF BUSINESS EQUIPMENT AND/OR FACILITIES

- A. Leon Lopez, a SoCal employee, was seen submitting bids on many E&CP contracts on behalf of J.G. Pipeline. On many occasions, Leon Lopez would actually arrive in SoCal trucks. (Declaration of Richard Culpepper, Exhibit Q; Declaration of Anita Welker, Exhibit H; Declaration of Mario Reyes, Exhibit L; Declaration of Edwin Shoemaker, Exhibit S; Declaration of Wendy Kramer, Exhibit R.)
- B. Leon Lopez was known to E&CP staff. Before the debarment, Jim Jackson would usually submit SoCal bids to E&CP. However, at times when Jim Jackson was unavailable, Leon Lopez would submit bids for SoCal. In fact, Richard Culpepper (a former SoCal employee who was responsible for submitting bids for SoCal until he left SoCal's employment on June 16, 2000) informed the City that Leon Lopez assumed this job responsibility for SoCal when Mr. Culpepper left. (Declaration of Richard Culpepper, Exhibit Q.)
- C. San Diego contractors who bid City work told E&CP that they saw a person pick up a bid for J.G. Pipeline, leave the building and get into a SoCal truck. On several occasions, persons exited trucks marked with SoCal insignia to submit bids for J.G. (Declaration of Edwin Shoemaker, Exhibit S; Declaration of Mario Reyes, Exhibit L.)

- D. Subcontractor's from whom J.G. requested price quotes indicate that Jim Jackson (Vice President, Secretary, and Treasurer of SoCal) answers J.G.'s cell phone. (Declarations of Mark McDaniel, Exhibit U; Mike Powell, Exhibit T; Edwin Shoemaker, Exhibit S.) The Contractors State License Board only had a cell phone number on file for J.G. as well. (Declaration of Celia Griffin, Exhibit V.)
- E. The "official" J.G. fax number is located at Jaime Parraga's National City personal residence. However, the actual fax line being used (see discussion below) by Jim Jackson to receive J.G. price quotes from subcontractors is the SoCal fax number. (Declarations of Mark McDaniel, Exhibit U; Mike Powell, Exhibit T.)
- F. J.G. Pipeline has no established business location.
 - 1) On J.G.'s bid sheet, in response to the City's standard form providing a place for contractors to insert their business address, J.G. provided a P.O. Box. When E&CP Contract Services Division asked for a business address, Leon Lopez advised Contract Services that he did not know the physical address of J.G., nor did he know where the company was generally located. Ultimately, the business address provided was Jaime Parraga's National City residence. (Declaration of Stacey Stevenson, Exhibit N.)
 - 2) Contract Services contacted National City to obtain additional information on J.G.'s address. However, at that time National City had no information on J.G. because they had not issued, nor had J.G. applied for, a National City business license. (Declaration of Celia Griffin, Exhibit V.)
 - 3) The Contractors State License Board had two addresses on file for J.G. which J.G. had never provided to the City. One of these addresses was the home address of Judy Ng Go. The second address was for the law offices of Richard Andrade. (Declaration of Celia Griffin, Exhibit V.)

5. J.G./SOCAL BID PRACTICES

- A. J.G. only bids City of San Diego work. J.G. bids the same type of work on which SoCal exclusively bid. (Declaration of Anita Welker, Exhibit O.)
 - 1) The cities of Chula Vista, Los Angeles, and Long Beach, as well as the local federal Naval offices, have no record of J.G. submitting bids or doing work for them. (Declaration of Celia Griffin, Exhibit V.) In contrast, while J.G. was submitting bids to the City in the fall, SoCal bid a Chula Vista public works project at the same time.

B. SoCal and J.G. have similar bidding patterns.

- 1) They both have a pattern of bidding low on various pipeline projects in quick succession. (J.G. Pipeline Bid History Chart, Exhibit B; Declaration of Stacey Stevenson, Exhibit N.)
- 2) Jeff Scheidel, Vice President of Scheidel Contractors and Engineering, Inc. [Scheidel], and Board Member of the Associated General Contractors Association [AGC], indicates that based on his twenty-five years experience in job estimating, J.G.'s low bid pricing is not reasonable or responsible. J.G. was the low bidder on seven out of fourteen City jobs (50% of the time). In fact, Mr. Scheidel indicates that bonding company officials have advised him that a red flag is raised any time a contractor is low bidder over 10% of the time. The concern being that the contractor is taking risks and may not be able to complete all the work satisfactorily, which would then force the bonding company to intervene and complete the work. (Declaration of Jeff Scheidel, Exhibit W.)
 - a) According to Mr. Scheidel, bidding on public works projects is an involved and complex process. Responsible contractors typically are only the low bidder on approximately 5% - 10% of the total number of jobs they bid. Any contractor who is low bidder on 50% of the jobs he/she is bidding is probably not basing the bid on the plans, specifications, and actual field conditions. Generally, when this occurs, the contractor either loses money, uses shoddy materials, or seeks numerous change orders with exorbitant change order pricing, all of which can result in delayed completion of projects and strained contractor/agency relations. (Declaration of Jeff Scheidel, Exhibit W.)
 - b) For Project No. K01023C, Construction of Dale Street Storm Drain, on which Scheidel was the second low bidder, J.G. Pipeline's bid was approximately \$100,000.00 lower than Scheidel's. The City Engineer's estimate was approximately \$500,000.00 which equals a 20% price difference between J.G. Pipeline's bid and the City Engineer's estimate. The rest of the bidders on this project were within approximately \$10,000.00 - \$20,000.00 of Scheidel's bid. Mr. Scheidel indicates that nothing in Scheidel's post bid analysis of this job would indicate that the job could be done profitably in accordance with the plans and specifications, nor completed on time for \$100,000.00 less than Scheidel's bid price. (Declaration of Jeff Scheidel, Exhibit W.)

- c) According to Mr. Scheidel, the San Diego county public works construction market is a very difficult market in which to compete profitably. When contractors succeed in setting unreasonably low pricing on public works projects, the contracting community, the agency and the taxpayers suffer as a result of shoddy work, delayed projects and significant staff time spent on ensuing litigation. (Declaration of Jeff Scheidel, Exhibit W.)

6. J.G. COMPANY PROFILE

- A. San Diego Municipal Code section 22.0801, et. seq., prohibits all City departments from executing a contract with a debarred contractor. In light of the law, E&CP became concerned about whether it was lawful to award a contract to a corporation that was SoCal operating under a different name. It is the customary practice of E&CP Contract Services Division to request company profiles from new companies who are the lowest bidder and who are considered for bid awards, in order to gain information about unknown companies. Anita Welker, the Contract Administrator, sent such a request to J.G. on September 26, 2000, and in response J.G. sent a letter back on October 4, 2000, profiling the company's experience. (J.G. Company Profile, Exhibit X; Declaration of Anita Welker, Exhibit H.)
- B. In J.G.'s "Company Profile," J.G.'s organizational structure was substantially the same as SoCal's. The San Diego Municipal Code extends debarment to include any and all "organizational structures" and "divisions." In a contracting scenario, the organizational structure is comprised of, including but not limited to: foremen, superintendents, officers and owners. Both SoCal and J.G. include Jaime Parraga and Ruben Mendoza as superintendents, Tony Barrios as a foreman, Jim Jackson as officer then, bid preparer now, and George Frost via Judy Ng Go. (J.G. Company Profile, Exhibit X.) And, as described below, this organizational structure was working for SoCal at the time J.G. was submitting numerous bids. (Pianavilla Report, Exhibit K; Declarations of Ky Stratton, Exhibit J; Collins Soloman, Exhibit G.)
- C. In addition, **every job** listed for J.G. Pipeline's "Construction Experience" was a SoCal job. (Letter from County of Los Angeles, Exhibit Y; Declaration of Anita Welker, Exhibit H.) Further, the listed contracts account for **more than one-half** of the contracts on which SoCal was debarred (five of nine City jobs). (J.G. Company Profile, Exhibit X.)

Mid-November 2000 - The J.G. Company Profile raised more questions than it resolved. In light of the cumulative evidence that J.G. was SoCal attempting to circumvent the debarment, E&CP rejected J.G.'s bids. Anticipating that J.G. would continue to submit

bids, E&CP contacted the City Attorney's Office for assistance. Additional research obtained the following information:

- A. Wendy Kramer, City Attorney Investigator, was instructed to ascertain if there was any connection between SoCal and J.G. Within the first day of this research, Ms. Kramer performed computer searches of: a) both companies' corporate records and corporate officers to determine if there were any bankruptcies, liens, or judgments filed against any of them; b) Dun and Bradstreet reports on both companies; c) certified records on both companies from the California Secretary of State and the Contractors State License Board; Department of Motor Vehicles Records; and d) Superior and Municipal Court records for Orange, San Diego, and Los Angeles Counties. (Declaration of Wendy Kramer, Exhibit R.)
- B. DMV records revealed that George Frost (owner of SoCal), his sister-in-law Judy Ng Go (owner and President of J.G.), and the corporate entity Southern California Underground Contractors, Inc. were located at the same address. Records show that SoCal officer George Frost's wife, Katie Frost, was "also known as" Katie Ng Go, and resided at 418 West 39th Street, San Pedro, California 97031, as of September 14, 1994. Judy Ng Go resided at the same address as of June 5, 1996. George Frost was served a small claims court judgment dated June 3, 1996, at this same address, 418 West 39th Street, San Pedro, California. And, Southern California Underground Contractors, Inc., was served a judgement entered into by a Superior Court at this very same address, also in 1996, specifically, October 3, 1996. Because Judy and Katie are two years apart in age, Judy Ng Go is believed to be George Frost's sister-in-law. (Declaration of Wendy Kramer, Exhibit R.) She appears to be involved with J.G. Pipeline in order to allow George Frost, a debarred contractor, to maintain his influence in the operations of J.G./SoCal.
- C. According to a Dun & Bradstreet Report dated October 12, 2000, George Frost holds 100% of capital stock in SoCal. (Dun & Bradstreet Report, Exhibit C.) Now his relative Judy Go is the owner of J.G. Pipeline. (National City Business License Application, Exhibit D.)

November 2000 - Jim Jackson requested that several bids and quotes, and a credit application for J.G. Pipeline, be faxed to SoCal's fax number. (Declaration of Mike Powell, Exhibit T.)

November 27, 2000 -

- A. At about 2:30, Mario Reyes, a City resident engineer, saw Jim Jackson (Vice President, Secretary, and Treasurer of SoCal) leaving the J.G./SoCal yard in a white Ford Explorer. (Declaration of Mario Reyes, Exhibit L, with attached photos.)

- B. Numerous City Resident Engineers received phone calls and/or messages from an individual allegedly working for “Tretrault Consultants.” The individual stated that Tretrault was doing consulting for the City of Encinitas. Mario Reyes, resident engineer, inquired how to spell the consulting firms name. The individual spelled it, then paused and said hold on a minute. When he returned to the phone, he spelled it again but this time differently than before. He inquired regarding the quality of SoCal’s work. The individual appeared to become defensive upon hearing that SoCal was debarred and stated, “but that is only for work with the City of San Diego.” Mario Reyes obtained a call back number. That number was the voice mail for “Mario Ramirez from SoCal.” Luis Duenes, Ky Stratton and Ken Zerehpoush also received similar phone calls. (Declaration of Mario Reyes, Exhibit L.)

November 30, 2000 -

- A. Mario Reyes, a City resident engineer, witnessed Leon Lopez driving a truck, License No. 6464033, owned exclusively by Southern California Underground Contractors, Inc. and enter City offices. Right after Mario Reyes observed Leon Lopez driving, Luis Duenes, another City resident engineer, observed Leon Lopez at a City bid opening as the J.G. representative. They communicated what Mr. Lopez was doing by way of a cell phone. Mario Reyes saw Leon Lopez return to the SoCal truck after the bid opening. (Declarations of Mario Reyes, Exhibit L; Luis Duenes, Exhibit Z, both with attached photos; Wendy Kramer, Exhibit R .)
- B. Mario Reyes went to the J.G./SoCal yard located at Imperial Avenue and 45th Street. All equipment was the same SoCal equipment (painted green bumpers, some white, some yellow), the same trailers (gray with green trim) which appear to be the same mobilehomes/trailers in which meetings with SoCal were held. Trucks with SoCal colors, and the name “SoCal” painted on the driver’s door entered and exited the yard. (Declaration of Mario Reyes, Exhibit L.)

December 12, 2000 through December 13, 2000 -

- A. Because several contractors notified the City that SoCal, and therefore J.G., had a yard near 45th and Imperial Avenue, the Pianavilla Investigative Agency took photos and videotape of persons and vehicles at the yard, and at any job sites to which these people went. License plates for vehicles in these photos disclosed that eight were registered to either Southern California Underground Contractors, or Southern California Underground Contractors dba Leon Lopez, or Leon Lopez doing business as Southern California Underground Contractors, or Leon Lopez.

Another vehicle was registered to Jaime Parraga (J.G. Officer as described above).

The following is a chart setting forth the registered owner of the vehicles at the SoCal/J.G. yard:

D.M.V. LICENSE PLATE	REGISTERED OWNER
6G07774	SO.CAL. UNDERGROUND CONTR. OR LEON LOPEZ
5G04255	SO. CALIF. UNDERGROUND CONT. INC.
6A64580	SOUTHERN CALIF. UNDERGROUND CONTRACTORS INC.
SE488135 (generator)	S.CALIF. UNDERGROUND CONTRACTORS INC.
2ZOJ900	PACHECO, CONSUELO
SE497264 (water truck)	WRATISLAW MASONRY INC.
5H89928	SO.CALIF. UNDERGROUND CONTRACTORS, INC.
5F69598	SOUTHERN CAL CONTRACTORS
6F81949	SO.CAL UNDERGROUND CONT. INC.- LEON LOPEZ
4ELE886	WHEELER, STEPHEN MARK
4CNZ548	PARRAGA, JIM
5X76766	SO. CAL. UNDERGROUND
9C40189	ALL EQUIP LSG. LSR., SO.CA. UNDGRND. CONSTR. INC., LSE.
6A64033	SO. CAL UNDERGROUND, CONSTRCTN.

(Pianavilla Report, Exhibit K; Declaration of Wendy Kramer, Exhibit R.)

- B. Collins Soloman, a City resident engineer, reviewed the Pianavilla videotape. He recognized Joaquin Garcia, a laborer/operator; Alfredo Salgado, a laborer/pipelayer known as "Chaparo," who wore the same hat in the tape as he did when he worked for SoCal on Job 530A. Collins Solomon also recognized a vehicle typical of SoCal because it is a white Chevy truck, has a chain in front, a

green bumper, green stripe, and green grille. To the City's knowledge, no other contractor in San Diego uses these particular distinctive markings. Other indicia of SoCal included a SoCal pipe-layer who worked on a City Group Job; a SoCal gold generator with green trim attached to a white and green Chevy truck; Ruben Mendoza, the most senior SoCal foreman (also identified by J.G. as a J.G. Superintendent); and a SoCal employee known only as "Chuie" (red sweatshirt, red hat, mustache); Julian Mendoza Tapia, a SoCal foreman; another SoCal truck (white Chevy with a silver stripe, green bumpers, chain around the license plate, tinted rear-cab window) used by SoCal foremen; a typical SoCal barricade (with "S.C.U." imprinted on it); one SoCal water truck (white with a green stripe in the middle of the water carrier compartment) and a second water truck, with graffiti on its side, that SoCal has been using for an extended period of time; SoCal backhoes manufactured by John Deere; and a mobilehome/trailer, owned by Jaime Parraga that looks similar to a SoCal trailer for use by SoCal workers. (Declaration of Collins Soloman, Exhibit G.)

7. J.G./SOCAL CONTRACTING COMMUNITY INPUT

- A. This particular facet of the construction industry is described as a "small community." Many contractors and subcontractors were reluctant to reveal information about J.G./SoCal because they feared repercussions in the pipeline community. Although many contractors were reluctant to provide information, well-established contractors, those with many years in the business, provided declarations detailing their knowledge that J.G. is SoCal. However, even these individuals revealed a great deal more information than they were willing to put in a declaration for fear of reprisal. One declarant, aware that CGU was J.G.'s bonding company, contacted his own insurance agent. His agent informed him that a CGU representative described J.G. as a large company that had done a lot of work in San Diego before it was banned. The precise definition of SoCal. This contractor disclosed this information confidentially and would not allow the City to disclose his name, contact his agent, nor the CGU representative. (Declaration of Wendy Kramer, Exhibit, R.)

8. J.G./SOCAL COMMON USE OF CONSULTANTS

- A. Not only are J.G./SoCal represented by the same attorneys, the initial correspondence from J.G.'s attorney on behalf of J.G. was executed as "Attorney for Southern California Underground Contractor's, Inc." (Declaration of Stacey Stevenson, Exhibit N.)
- B. J.G./SoCal have the same surety company providing bonds - CGU Insurance Company, 1340 Treat Boulevard, Suite 400, Walnut Creek, Northern California, CA 94596, Candy M. Coons, Attorney-in-Fact. J.G. and SoCal obtained their

bonds on July 10, 2000, and November 8, 2000, respectively. (Bond and Insurance Documents, Exhibit AA.) Please note that when the City attempted to obtain basic information regarding J.G.'s bond, J.G. refused to provide even simple information such as who signed for J.G.'s bond. (Letter from E&CP to CGU Insurance, Exhibit BB; Letter from Andrade & Associates to City, Exhibit CC.)

- C. J.G./SoCal have the same insurance company - Meridian Insurance Service, Inc., 4501 E. La Palma Avenue, Suite 150, Anaheim, CA 92807, Don Minium, Insurance Agent. J.G. and SoCal obtained their insurance policies/certificates on August 15, 2000, and November 11, 2000, respectively. (Bond and Insurance Documents, Exhibit AA.)

December 20, 2000 - J.G. obtained a business license to operate a business in National City.

- A. On that application, Jaime Parraga is listed as Vice President, Secretary, and Treasurer. However, on the California Contractors State License Board license, Judy Ng Go is Treasurer, Secretary, and President. But, on the National City application, Judy Ng Go is not only listed as President, but is also listed as Owner. Richard Andrade is the Responsible Managing Employee. (Contractor License No. 782984 for J.G., Exhibit I; Declaration of Celia Griffin, Exhibit V.)
- B. Although Jaime Parraga, was the Vice-President, Treasurer and a Superintendent for J.G. as of August 9, 2000, Jaime Parraga's, and another "J.G. employee," Joaquin Garcia's, vehicles were parked at SoCal's yard. SoCal's yard is used to store equipment and trucks for SoCal. J.G. employees were working for SoCal as described below. (Declarations of Collins Solomon, Exhibit G; Ky Stratton, Exhibit J; Pianavilla Report, Exhibit K.)
- C. Ky Stratton, a City resident engineer, was paged by Reuben Mendoza, a foreman for SoCal/J.G. Reuben described his location at the corner of Halecrest Drive and Telegraph Canyon Road, Chula Vista. He told Mr. Stratton he saw him drive by and that Mr. Stratton should stop to say hello. The next day Mr. Stratton stopped at this location and talked with Reuben Mendoza. Mr. Mendoza stated that he was working on a SoCal job as the foreman replacing a storm drain for the City of Chula Vista. (He also has been identified as a superintendent for J.G. as described above.) At this job site, Ky Stratton saw equipment painted green which he recognized to be SoCal equipment, a 225 or 235 excavator, a SoCal water truck, and SoCal barricades. Ky Stratton also saw numerous employees who had worked on City Group Job 636 for SoCal. Ky Stratton reviewed a copy of Richard Andrade's expedited application to the State Contractor's License Board and the list of SoCal employees who were to be "laid off" sometime in August 2000. Four of those listed J.G. employees were working on this SoCal job site: Reuben Mendoza, Tony Barrios, Javier Mendiola, and Alfredo Salgado. (Declaration of Ky Stratton, Exhibit J.)

January 2001 -

- A. J.G. requested bids from subcontractors to prepare a bid for a City job. When the subcontractors called the cell phone number given for J.G., Jim Jackson (Vice President, Secretary and Treasurer of SoCal) answered the phone. Ed Shoemaker would not reveal the names of the subcontractors because the subcontractors told him in confidence. They feared that by disclosing this information they would be “cutting their own throat[s].” (Declaration of Ed Shoemaker, Exhibit S.)
- B. Ed Shoemaker saw a woman submit a bid to E&CP Contract Services Division on behalf of J.G. Pipeline, Inc. When she left, he saw her get into a truck which had a Southern California Underground Corporation, Inc. insignia on the side. (Declaration of Ed Shoemaker, Exhibit S.)

February 2001 -

- A. A brief and accompanying documentation pertinent to J.G.’s post-SoCal debarment conduct was provided to J.G. in full as early as February of this year. That information is substantially the same information as the information provided to J.G. described below.

May 10, 2001 -

- A. Although personal service is not required under the San Diego Municipal Code, the City personally served a draft² of this City Manager’s Report and accompanying documentation on J.G. Pipeline, Inc., Richard Andrade, Judy Ng Go and Jaime Parraga, through their attorney Andrade & Associates.
- B. Although personal service is not required under the San Diego Municipal Code, the City personally served a draft of this City Manager’s Report and accompanying documentation on Jim Jackson at a trailer on a lot at 9509 Hermosa Avenue, Rancho Cucamonga, CA 91730.
- C. The City left a copy of the draft City Manager’s Report and accompanying documentation at George Frost’s home address. Although personal service is not required under the San Diego Municipal Code, the City attempted several times to personally serve George Frost at his various addresses on file.
 - 1) George Frost’s address of 1599 Seabright Avenue, Long Beach, CA 90813 is a vacant lot.

² A draft Report summarizing the City’s evidence was prepared and provided to J.G. to afford as much advanced notice to J.G. as possible. In order to ensure impartiality of the City Council, that Report was not formally issued nor provided to the City Council or City Clerk until subsequent to the SoCal debarment hearing. The draft Report was updated to include pertinent information obtained at the SoCal hearings.

- 2) George Frost's address of 1045 South 43rd Street, San Diego, CA is a vacant lot.
- 3) Tom Musick went to George Frost's address to serve him with documents. At George Frost's home address, 418 West 39th Street, San Pedro, CA 90731, a woman appearing to be approximately fifty years of age and of oriental descent opened the door. She indicated that George Frost would be unavailable for several days. She provided George Frost's cell phone number. A man who identified himself as George Frost answered the cell phone. After Mr. Musick described the documents to be served on George Frost, George provided an address of 9509 on Hermosa Avenue, Rancho Cucamonga, CA 91730. He provided directions to the site and stated he was staying there in a mobile home on the site.

When Mr. Musick arrived at the site, no one answered the door, but a man spoke to him through a window and stated that George Frost departed a few minutes before. It was dark inside the mobilehome but Mr. Musick could discern that the man had a mustache, appeared to be Caucasian and in his early fifties.

On May 10, 2001, Mr. Musick, familiar with Jim Jackson's Ford Explorer, followed Jim from his home to the same Hermosa Avenue address provided by George Frost the previous day. Mr. Musick inquired of Jim Jackson where Mr. Frost could be located. Jim made a phone call, addressed the person on the phone as George and stated, "There is a guy here looking for you." Jim Jackson got off the phone and indicated that George Frost was not present, that he was not on the site, and that Jim did not know when George would return. Jim Jackson would not divulge any additional information regarding where George Frost could be located. Mr. Musick then personally served Jim Jackson as described above. Mr. Musick provided the documents to the woman at George Frost's home address.

Approximately June 8, 2001 - Revised City Manager's Report No. 01-113 was issued and personally served on J.G. Pipeline, Richard Andrade, Judy Ng Go and Jaime Parraga, at the law offices of Andrade & Associates. The City will use diligent efforts to personally serve George Frost and Jim Jackson notice.

CONCLUSION

The totality of the information described in detail above indicates a willful effort on the part of SoCal/J.G. to circumvent the permanent debarment mandated by the City Council. Such corrupt practices violate in letter and spirit the principles of "responsible" bidding and are prohibited by law.

A swift and permanent debarment of J.G. is necessary to protect the health and safety of the citizenry, the full and open competition, namely the integrity of our bidding system, granting contract awards only to responsible contractors.

ALTERNATIVES

1. Debar J.G. for a period of three years.
2. Do not debar J.G.

Respectfully submitted,

Stacey Stevenson
Deputy Director

Approved: George Loveland
Senior Deputy City Manager

Frank Belock, Jr.
Director
Engineering & Capital Projects Dept.

LOVELAND/BELock/SS



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: July 16, 2001

**SUPPLEMENTAL REPORT TO
REPORT NO. 01-113 REVISED**

ATTENTION: Honorable Mayor and City Council
Docket of July 24, 2001

SUBJECT: Failure to Provide Information Solely Within J.G.'s Control Bearing on its
Relationship to SoCal.

Proposed Debarment of J.G. Pipeline, Inc., its divisions and organizational elements, its Affiliates, Richard Andrade, Jaime Parraga, George Rogers Frost, Judy Ng Go, and James Jackson [These individuals, the corporate entity, its divisions and organizational elements, and its Affiliates will hereinafter be referred to as “**J.G.**” for convenience and clarification].¹ This debarment is separate and distinct from the procedural process of the debarment of Southern California Underground Contractors, Inc., its divisions and organizational elements, its Affiliates, James Craig Jackson, and George Rogers Frost [These individuals, the corporate entity, its divisions and organizational elements, and its Affiliates will hereinafter be referred to as “**SoCal**” for convenience and clarification.]

Reference:- Revised City Manager's Report Nos. 01-113, 01-068 and all documentation incorporated by reference. Both Reports are incorporated into this Report by this reference.

¹Where the full name J.G. Pipeline is used, it refers to the corporate entity itself. It also applies to the Southern California Underground Contractors, Inc. because they both are the same company operating under different names.

INTRODUCTION

J.G. has repeatedly failed to provide information solely within their control. This report is a Supplement to two Revised City Manager's Reports previously provided to you. As you know, SoCal was originally debarred on June 26, 2000. Four days later SoCal created another corporate entity named J.G. Pipeline, Inc. It is the City Manager's contention that SoCal created J.G. in order to circumvent the debarment and to continue doing business with the City. The individuals that created J.G. to circumvent the debarment include: Richard Andrade, Judy Ng Go, Jaime Parraga, George Frost and James Jackson. These parties, acting under the new name, continued the same bidding practices as they did under SoCal, as described in the City Manager's Reports referenced above. As a result of their conduct, the City rejected J.G.'s low bids. Under San Diego City Council Policy 000-29, a bidder may protest a contract award and have an administrative hearing by a Protest Board.

HEARING

In February of 2001, a Protest Board hearing was held relating to five separate contracts on which J.G. was the apparent low bidder. This information was not previously included in City Manager's Report No. 01-113, because J.G. had filed a writ in Superior Court challenging the Hearing. Once the City noticed depositions pursuant to this litigation, J.G. dismissed these cases, as described below. At the Protest Board hearing, J.G. requested that the hearing include not only three bids rejected by the City in the fall of 2000, but also two additional contracts rejected in early 2001. However, at the hearing, J.G. changed its mind and argued that testimony and evidence should be limited to only those specific reasons for rejection enumerated by the City in the rejection letters for the first three contracts. J.G. objected to consideration of any other evidence known to the City supporting the City's rejection. If J.G.'s motion were granted, J.G. argued the City would be precluded from introducing any evidence not specifically mentioned in the rejection letters. The Protest Board heard arguments on the motion, reviewed pertinent correspondence, took the issue under submission, and ultimately decided that all evidence was admissible in the administrative hearing. The Protest Board heard all evidence and testimony, engaged in extensive questioning of both parties, and ruled that J.G. was SoCal. As a result, the Board upheld rejection of J.G.'s bids.

DEPOSITIONS

Subsequent to that Protest Board hearing, J.G. filed two actions against the City. On June 12, 2001, the City noticed the depositions of Judy Ng Go and Jaime Parraga pursuant to the litigation. The depositions were to take place on June 25, 2001 (Jaime), and June 26, 2001 (Judy). However, on or about June 15, 2001, J.G. dismissed the litigation. By dismissing those lawsuits J.G. now could argue that the City had no legal authority to compel witnesses to appear for depositions. It is possible J.G. will seek to refile this litigation subsequent to the debarment. We believe that a court would require a significant factual showing before allowing J.G. to re-file.

Suspicious that J.G.'s dismissal of the litigation was to thwart the City's ability to depose Judy Ng Go and Jaime Parraga, individuals who possess crucial information regarding J.G., the City again noticed their depositions pursuant to the debarment. Two working days before the depositions were to take place Andrade & Associates, attorney of record for Judy Ng Go, Jaime Parraga, J.G. Pipeline and Richard Andrade, faxed a letter to the City. The letter indicated that Andrade & Associates no longer represented anyone other than Richard Andrade. The letter did not mention that the Andrade & Associates' office location was moving or had moved despite that Judy Ng Go's noticed deposition was scheduled to be held at the vacated office in a matter of days. By dropping the representation, Andrade & Associates' clients again avoided depositions. Although there is no absolute right to depositions in an administrative hearing, the City previously accommodated SoCal's request to depose six City inspectors prior to the June 2000 debarment even though no litigation was pending.

Neither Judy Ng Go nor Jaime Parraga attended their depositions. On June 25, 2001, Deputy City Attorney Sim Von Kalinowski, and a court reporter, were available to take Mr. Parraga's deposition, but Mr. Parraga never showed. On June 26, 2001, Mr. Von Kalinowski and a court reporter arrived in Orange County at the Andrade & Associates law firm where Judy Ng Go's deposition was scheduled to take place. The office had moved. Mr. Von Kalinowski called Jennifer Friend and informed her he was at their vacated office. Jennifer Friend informed Mr. Von Kalinowski that Judy Ng Go would not be attending her deposition. Ms. Friend did not mention why Ms. Ng Go would not attend, nor did she say anything about Ms. Ng Go retaining a new attorney. However, at 10:40 p.m. that night James DeOlden, Esq., faxed a letter to the City stating that he represented Judy Ng Go and Jaime Parraga. His letter was back dated to June 19th. In that letter he objected to the depositions on the basis that all Superior Court matters were dismissed and as a result, the City had no legal authority to compel the depositions. Any information dispelling the aura that J.G. is SoCal operating under another name is entirely within the control of these individuals who have consistently and repeatedly refused to voluntarily provide information on this issue.

Finally, the City encouraged the newly retained attorneys to have their clients voluntarily deposed. In that letter, the City informed J.G. that if they had any information disproving the contents of the Revised City Manager's Report No. 01-113 and No. 01-068, the City Attorney's Office would recommend that the City Manager reconsider moving forward on the debarment. There has been no response.

CONCLUSION

SoCal and J.G. have committed and continue their corrupt practices. Swift and permanent debarment of J.G. is necessary to protect the health and safety of the citizenry, the full and open competition, namely the integrity of our bidding system, granting contract awards only to responsible contractors.

Respectfully submitted,

Stacey Stevenson
Deputy Director

Approved: George Loveland
Senior Deputy City Manager

Frank Belock, Jr.
Director
Engineering & Capital Projects Dept.

LOVELAND/BELLOCK/SS



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: May 17, 2001 REPORT NO. 01-068 **REVISED**

ATTENTION: Honorable Mayor and City Council
Docket of May 22, 2001

SUBJECT: Proposed Debarment of Southern California Underground Contractors, Inc., its divisions and organizational elements, its Affiliates, James Craig Jackson, and George Rogers Frost. [These individuals, the corporate entity and its sub-parts will hereinafter be referred to as "SoCal" for convenience and clarification.]

SUMMARY

Issue - Should the City Council permanently debar SoCal under San Diego Municipal Code sections 22.0801 et seq.?

Manager's Recommendation - Adopt a resolution permanently debarring SoCal and include Findings establishing that SoCal engaged in, including but not limited to, a pattern of willful acts of corruption and deception, of unethical and unacceptable business practices, and of inadequate contract performance while performing City public works contracts. Permanently debar SoCal under San Diego Municipal Code sections 22.0801 et seq.

Fiscal Impact - None.

Reference - City Manager Report No. 00-132, accompanying documentation and the Administrative Record/Project Files described below, incorporated herein by this reference.

BACKGROUND

This rehearing is before the City Council to determine whether or not SoCal should be permanently debarred. Debarment is a sanction to be imposed only in the public interest for the City's protection and not for purposes of punishment. It is designed to protect the City by ensuring full and open competition by granting contract awards only to responsible contractors. On June 26, 2000, after a noticed public hearing, SoCal was debarred by the San Diego City Council for egregious corrupt practices.

Generally, SoCal was caught stealing water on no less than five occasions. SoCal's representatives violated traffic control at least sixteen times, on at least one occasion a police officer was forced to issue a citation in order to secure their compliance. Two of those traffic control violations directly involved deceit by SoCal. First, SoCal staff modified an approved traffic control permit by adding street names of areas which were not approved and for which no permit was issued. Second, SoCal admittedly falsified a traffic control drawing by essentially "cutting and pasting" an approval stamp from an approved drawing onto the non-approved drawing. This traffic control drawing was modified to justify crew work in a public right-of-way without permission. Additionally, SoCal misrepresented that they replaced sewer laterals which they did not. Further, SoCal filed false claims inflating invoices for extra work of staff labor rates and equipment rates to obtain undue monies from the City. SoCal's egregious business practices endangered the public health, safety and welfare of the citizenry.

DISCUSSION

A. Procedural History

SoCal's business practices compelled the City Council to take swift and effective action permanently debarring them from committing any further willful acts of corruption and deception, of unethical and unacceptable business practices, and of inadequate contract performance. The timeline that led to the debarment is described below:

On June 7, 2000, City staff contacted SoCal and informed them of the City Manager's intent to recommend debarment to the City Council.

On June 8, 2000, City staff met with SoCal, and provided them a detailed fact sheet of their violations and evidence upon which the City Manager's proposal was based.

On June 13, 2000, City staff met, at SoCal's request, with SoCal to allow them an opportunity to respond to the allegations. SoCal admitted most of the allegations as true. However, SoCal contended that when violations were brought to their attention, SoCal

corrected them. Therefore, in SoCal's opinion debarment was unfair. City staff was not satisfied that SoCal understood the gravity of their egregious business practices particularly when their "corrections" were often corrections of behavior for which they had previously been admonished (for example, as described above, they were caught stealing water at least five times, and violated traffic control at least sixteen times). City staff believed that SoCal would continue to perform unacceptable practices and only modify their behavior after they were "caught." Therefore, City staff proceeded to City Council with a recommendation for permanent debarment.

Prior to the debarment hearing, SoCal filed documents to the City Council for review and consideration. In their documents, SoCal requested a sixty-day continuance of the matter. At the debarment hearing, in light of the gravity of SoCal's actions and the need for expeditious action, the City Council provided SoCal a one week continuance.

Although there is no absolute right to depositions in an administrative hearing, the City accommodated SoCal's request to depose the following six City inspectors regarding the facts underlying the debarment:

June 22, 2000: Manolito Ramirez
Ky Stratton

June 23, 2000: Luis Duenes
Craig Fergusson
Mario Reyes
Collins Solomon

On June 23, 2000, the City made available to SoCal all Project Files for the Group Jobs SoCal was working on. SoCal representatives reviewed the files and made copies. SoCal staff inspected these documents at the City Engineering Department Field Division. In addition, SoCal had a copy service copy selected documents.

Additionally, on January 24, 2001, SoCal was provided the Administrative Record in the matter of Superior Court Case No. GIC750233. The Project Files described above are also in this Administrative Record provided to SoCal.¹

¹ Information contained in these project files was discussed at the June SoCal debarment hearing. For convenience and clarity, because the Administrative Record is fully paginated and contains the Project Files, the Administrative Record is before this Council and available for review and reference for the SoCal debarment rehearing.

The debarment was heard on June 26, 2000, by the City Council. Staff gave a ten minute presentation and SoCal was given ten minutes to present their case. After considering all evidence presented, the City Council debarred SoCal.

B. Procedural Due Process

SoCal, once debarred, filed two lawsuits. One was a lawsuit for damages allegedly resulting from the debarment. The second was an Administrative Writ. In the Writ SoCal challenged the procedural due process of the debarment. SoCal argued that they were not provided adequate notice, specifically, the requested sixty days, and an adequate opportunity to be heard. The Honorable Superior Court Judge Amos found that SoCal was not provided adequate time to prepare a defense of the debarment and therefore was denied due process. The court remanded the matter to this City Council for a rehearing of the debarment.

In addition to the above described notice, although there is no absolute right to depositions in an administrative hearing, again the City accommodated SoCal's request to depose twelve City staff members. Depositions of the following City staff were taken by SoCal. These depositions are in addition to those depositions taken in June of 2000:

May 3, 2001:	George Loveland, Senior Deputy City Manager
April 26, 2001:	Frank Belock, Director,
April 24, 2001:	April Penera, Assistant Deputy Director, Engineering & Capital Project Department
April 25, 2001:	Dave Zoumaras, Senior Engineer, Engineering & Capital Project Department
April 30, 2001:	Reza Taleghani, Associate Engineer, Engineering & Capital Project Department
May 10, 2001:	Hamid Yaghoubpoor, Associate Engineer Engineering & Capital Project Department
May 11, 15, 2001:	Hushmand Yazdani, Associate Engineer, Engineering & Capital Project Department
May 7, 2001:	Ross Jackson, Associate Engineer, Engineering & Capital Project Department
May 9, 2001:	Duncan Hughes, Associate Engineer, Engineering & Capital Project Department
May 2, 2001:	Victor Razon, Assistant Engineer, Engineering & Capital Project Department
May 15, 2001:	Ken Zerehpoush, Assistant Engineer, Engineering & Capital Project Department

May 2, 2001: Janice Ellis, Claims Representative II, Risk Management Department

C. Factual Background

1. Misuse of Water:

- a. On December 17, 1999, SoCal was observed filling a water truck from a City of San Diego fire hydrant without a meter as required by Section 7-15 of the Sewer Group Job 647 construction contract, City of San Diego Supplemental Amendments to the Standard Specifications for Public Works. The City notified SoCal that a properly registered, functional water meter was required.
- b. Again on February 15, 2000, SoCal was observed filling a water truck from a City fire hydrant without a meter as required by the Water and Sewer Group Job 464A construction contract. On that date, City staff verbally notified SoCal, and again on February 18, 2000, gave written notice to SoCal of the contract requirement that a water meter was necessary.
- c. On Water and Sewer Group Job 464A on April 13, 2000, SoCal used an inoperable water meter, Serial No. 91004201, which was confiscated by City staff and returned to the City Water Department. The Water Department discovered that this meter had been registered to SoCal, but SoCal had reported it lost or stolen three months earlier.
- d. On April 28, 2000, SoCal used an inoperable water meter, Serial No. 88537360, on Water and Sewer Group Job 530A by connecting it to a City of San Diego fire hydrant. This meter also had been reported lost or stolen by SoCal, and it was overdue for a reading. City staff again advised SoCal both verbally and in writing of the contract requirement that a water meter must be properly registered.
- e. On May 3, 2000, City staff checked the water meter SoCal was using on Sewer Group Job 636 and found that the meter, Serial No. 89542881, also had been reported lost or stolen by SoCal in December 1999.
- f. After numerous and repeated notices from City staff of violations relating to water meters, according to SoCal, SoCal rented five new water meters from the City Water Department in late April/early May 2000. However,

after renting these new water meters, City staff observed them again using water without a meter to acquire water for their construction work.

2. Traffic Control Permits:

- a. On Water and Sewer Group Job 464A, SoCal began work in the public right-of-way without a required traffic control permit. SoCal disregarded three written violation notices dated January 12, 2000, January 31, 2000 and February 2, 2000, and continued to work without a traffic control permit thereby creating a threat to public health and safety.
- b. On Water and Sewer Group Job 496, the City issued SoCal a traffic control violation notice on February 3, 2000, because SoCal failed to: 1) install required traffic control devices which warn motorists of construction activities and guide them safely through a construction zone; 2) provide continuous access for emergency vehicles and local traffic as required; 3) remove construction debris from the right-of-way; and 4) cease work and exit the right-of-way during peak traffic hours as required by their traffic control permit.
- c. On Water and Sewer Group Job 605, SoCal failed to obtain a traffic control permit and on several occasions failed to implement proper traffic control. City staff issued written stop work or violation notices after observing this behavior on January 27, 2000, February 16, 2000, February 25, 2000, March 2, 2000, March 17, 2000 and May 23, 2000. On April 3, 2000, SoCal was cited by the San Diego Police Department for performing work in the right-of-way without a valid traffic control permit.
- d. While performing work on Water and Sewer Group Job 464A, SoCal presented a traffic control permit to City staff. After further investigation by staff, it was later determined that SoCal added a street to the previously approved traffic control permit, so it appeared to cover their ongoing work.
- e. Also on Water and Sewer Group Job 464A, SoCal presented another traffic control drawing which had been fabricated in order to convince City staff to allow SoCal to continue working in the right-of-way. On the traffic control drawing presented by SoCal, SoCal had cut an approval stamp from a different, approved drawing and pasted it on an unapproved drawing. SoCal acknowledged to City staff that, in fact, they had modified the unapproved drawing to make it appear valid.

3. Other Inadequate Contract Performance

- a. In March 2000, SoCal provided late notice to residents that construction work would require that the residents avoid parking on the street on certain dates. The late notice SoCal provided failed to state necessary parking restrictions to prevent citizens from parking in the construction areas. As a result, one citizen's car was improperly towed at their expense.
- b. SoCal committed all of the following: on March 30, 2000, SoCal failed to adhere to City staff instructions to avoid impacting a concrete encased high voltage electric conduit; on March 31, 2000, SoCal told City staff that measurements revealed that work could be performed without impacting the concrete encased electric conduit. However, despite their representations, SoCal began chipping away at the concrete encased conduit with a large hydraulic chipping device attached to a backhoe. SoCal's chipping at the concrete damaged the electrical conduit and caused a power outage in the community. In addition, SoCal billed the City for additional work caused by the power outage.
- c. On Sewer Group 647, SoCal constructed new portions of the sidewalk and other improvements thereby implying the work had been completed and that they had completed installation of sewer laterals. SoCal represented to City staff that the laterals had been replaced. Suspicious in light of SoCal's conduct in other regards, the City required SoCal to excavate to confirm that the laterals had been replaced. Excavation of one of the laterals revealed that SoCal did not replace the dilapidated sewer laterals. Before City staff could observe excavations of the other sewer laterals that were allegedly replaced, (the inspection was scheduled for December 20, 1999), SoCal performed unauthorized work over the weekend of December 18, 1999, and replaced those other sewer laterals which SoCal claimed to have replaced.

4. False Claims for Extra Work:

- a. SoCal submitted Daily Extra Work Reports [DEWR] claiming inflated labor compensation rates. On Water and Sewer Group Jobs 464A, 514, 530A and Sewer Group Job 636, the construction contracts section 3-3.2.2 require SoCal to charge the City its actual labor costs. SoCal charged the City \$28.00 per hour for labor when SoCal's actual costs were less than

\$11.00 per hour, and only after being confronted and receiving several written requests by the City did SoCal finally submit actual labor rates.

- b. SoCal submitted several DEWRs to the City as a result of extra work performed by SoCal on Water & Sewer Group 464A. While evaluating these DEWRs, City staff noted a discrepancy regarding the model number and hourly rate for a backhoe. SoCal's DEWRs charged the hourly rate for a JD 510, \$22.67, which is greater than the hourly rate for a JD 310D, \$16.52. City staff took photographs of the backhoe in question which show both of the following: 1) the "3" in the standard 310D sticker on the side of the backhoe was removed and replaced with a "5," to make it look like a 510, and 2) inside the hood where the maintenance for this type of backhoe is located, the maintenance record indicated the backhoe was a 310D.
- c. On Sewer & Water Group 605, SoCal filed three workers' compensation claims against the City Water Department's Owner Controlled Insurance Program [OCIP]. Through independent investigation by the OCIP Risk Manager, Risk Management discovered that these workers were not assigned to the site on a full time basis and/or that the workers' injuries did not occur while performing work at the site as alleged by SoCal. In one of the cases, work on the job had been shut down at the date and time during which the injury was alleged to have occurred.

D. Existing Contracts

At the time of the debarment, SoCal was performing work on ten existing contracts. In that regard, the City Council directed that SoCal be allowed to complete those contracts. To date, SoCal has completed six of those contracts. The status of the remaining four contracts is:

<u>PROJECT</u>	<u>COMMUNITY</u>	<u>STATUS</u>
Sewer & Water Group 514	North Park	95% complete
Water & Sewer Group 530A	Old Town	95% complete
Sewer Group 630	Grant Hill/Stockton	99% complete
Sewer Group 647	Talmdage	99% complete

CONCLUSION

Honorable Mayor and City Council
May 17, 2001
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SoCal has repeatedly and flagrantly engaged in a pattern of willful acts of corruption and deception, of unethical and unacceptable business practices, and of inadequate contract performance. These acts demonstrate a consistent and pervasive disregard for the public health, safety and welfare. The City's cost of construction management is significantly greater than for other contractors because of the need to constantly monitor their performance to prevent their deceptive conduct. It is in the City's best interests to permanently debar SoCal.

ALTERNATIVES

1. The City Council could alternatively debar SoCal for a period of three years or less.
2. Do not debar SoCal and allow future contracting with the City.

Respectfully Submitted,

April Penera
Assistant Deputy Director
Field Engineering Division
Engineering & Capital Projects Dept.

Approved: George Loveland
Senior Chief Deputy City Manager
Public Works

Frank Belock
Engineering & Capital Projects Dept.
Department Director